

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2004-41

OSCAR ODELL MOON
a.k.a. O. ODELL MOON
P.O. Box 3130
Victorville, CA 92393-3130

Certified Public Accountant Certificate
No. CPA 27115

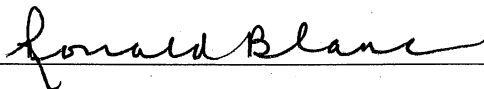
Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 20, 2006.

It is so ORDERED September 20, 2006.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

BILL LOCKYER, Attorney General
of the State of California
SUSAN MELTON WILSON, State Bar No. 106092
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ORIGINAL

Attorneys for Complainant

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. AC-2004-41
OAH No. L-2006030129

OSCAR ODELL MOON
a.k.a. O. ODELL MOON
P.O. Box 3130
Victorville, CA 92393-3130

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Certified Public Accountant Certificate
No. CPA 27115

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Carol Sigmann (Complainant) is the Executive Officer of the California
Board of Accountancy, Department of Consumer Affairs. She brought this action solely in her
official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State
of California, by Susan Melton Wilson, Deputy Attorney General.

2. Oscar Odell Moon a.k.a. O. Odell Moon (Respondent) is represented in
this proceeding by Law Offices of Brown & Brown, by Attorney Donald B. Brown.

3. On or about December 1, 1978, the California Board of
Accountancy issued Certified Public Accountant Certificate No. CPA 27115 to Oscar Odell

1 Moon, a.k.a. O.Odell Moon (Respondent). In March 1989, the Certified Public Accountant
2 Certificate was in a renewed status but inactive due to Respondent's failure to submit proof of
3 compliance with continuing education requirements, and remained in that status through June 30,
4 1989.

5 The Certificate was again renewed but inactive due to Respondent's
6 failure to submit proof of compliance with continuing education requirements for the period July
7 1, 1989 through December 19, 1990.

8 Effective December 20, 1990, the Certificate was converted to active
9 status through June 30, 1991, upon receipt of declaration of compliance with continuing
10 education requirements. The Certificate was expired and was not valid during the period July 1,
11 1991 through July 14, 1991, due to Respondent's failure to pay the renewal fee and submit proof
12 of compliance with continuing education requirements.

13 Effective July 15, 1991, the Certificate was renewed through June 30,
14 1993, upon receipt of the renewal fee and declaration of compliance with continuing education
15 requirements.

16 The Certificate was renewed for the period July 1, 1993 through June 30,
17 1995, with continuing education. However, the Certificate was expired and was not valid during
18 the period July 1, 1995 through October 26, 1995, due to Respondent's failure to pay the renewal
19 fee and submit proof of compliance with continuing education requirements.

20 Effective October 27, 1995, the Certificate was renewed through June 30,
21 1997. However, the Certificate was expired and was not valid during the period July 1, 1997
22 through July 29, 1997, due to Respondent's failure to pay the renewal fee and submit proof of
23 compliance with continuing education requirements.

24 Effective July 30, 1997 the Certificate was renewed through June 30,
25 1999. The Certificate was again renewed for the period July 1, 1999 through June 30, 2001
26 However, the Certificate was expired and was not valid during the period July 1, 2001 through
27 September 5, 2001, due to Respondent's failure to pay the renewal fee and submit proof of
28 compliance with continuing education requirements.

1 The Certificate was renewed effective September 6, 2001, but inactive due
2 to Respondent's failure to submit proof of compliance with continuing education requirements.
3 Effective November 25, 2002, the licensee complied with continuing education requirements,
4 and the Certificate was converted to an active status through June 30, 2003.

5 The Certificate has been regularly renewed and will expire on July 1,
6 2007, unless renewed.

7 JURISDICTION

8 4. Accusation No. AC-2004-41 was filed before the California Board of
9 Accountancy (Board), and is currently pending against Respondent. The Accusation and all
10 other statutorily required documents were properly served on Respondent on May 17, 2005.
11 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
12 No. AC-2004-41 is attached as **Exhibit A** and incorporated herein by reference.

13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, and understands the charges and allegations
15 in Accusation No. AC-2004-41. Respondent has also carefully read, and understands the effects
16 of this Stipulated Settlement and Disciplinary Order.

17 6. Respondent is fully aware of his legal rights in this matter, including the
18 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
19 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
20 the right to present evidence and to testify on his own behalf; the right to the issuance of
21 subpoenas to compel the attendance of witnesses and the production of documents; the right to
22 reconsideration and court review of an adverse decision; and all other rights accorded by the
23 California Administrative Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
25 each and every right set forth above.

26 CULPABILITY

27 8. Respondent admits the truth of each and every charge and allegation in
28 Accusation No. AC-2004-41.

1 9. Respondent agrees that his Certified Public Accountant Certificate No.
2 CPA 27115 is subject to discipline and he agrees to be bound by the Board's imposition of
3 discipline as set forth in the Disciplinary Order below.

4 CIRCUMSTANCES IN MITIGATION

5 10. Respondent has never been the subject of any previous disciplinary action.
6 He is admitting responsibility at an early stage in the proceedings.

7 RESERVATION

8 11. The admissions made by Respondent herein are only for the purposes of
9 this proceeding, or any other proceedings in which the California Board of Accountancy or other
10 professional licensing agency is involved, and shall not be admissible in any other criminal or
11 civil proceeding.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the California Board of
14 Accountancy . Respondent understands and agrees that counsel for Complainant and the staff of
15 the California Board of Accountancy may communicate directly with the Board regarding this
16 stipulation and settlement, without notice to or participation by Respondent. By signing the
17 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 13. The parties understand and agree that facsimile copies of this Stipulated
24 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
25 force and effect as the originals.

26 14. In consideration of the foregoing admissions and stipulations, the parties
27 agree that the California Board of Accountancy may, without further notice or formal
28 proceeding, issue and enter the following Disciplinary Order:

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1. **Actual Suspension.** Certified Public Accountant Certificate No. CPA 27115 issued to Respondent Oscar Odell Moon a.k.a. O.Odell Moon is suspended for three (3) months. During the period of suspension the Respondent shall engage in no activities for which certification as a Certified Public Accountant or Public Accountant is required as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

3. **Submit Written Reports.** Respondent shall submit, within ten (10) days of completion of the quarter, written reports to the Board on a form obtained from the Board. The Respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to Respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

5. **Comply With Probation.** Respondent shall fully comply with the terms and conditions of the probation imposed by the Board and shall cooperate fully with representatives of the Board of Accountancy in its monitoring and investigation of the Respondent's compliance with probation terms and conditions.

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1 6. **Practice Investigation.** Respondent shall be subject to, and shall permit,
2 practice investigation of the Respondent's professional practice. Such a practice investigation
3 shall be conducted by representatives of the Board, provided notification of such review is
4 accomplished in a timely manner.

5 7. **Comply With Citations.** Respondent shall comply with all final orders
6 resulting from citations issued by the Board of Accountancy.

7 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
8 Respondent should leave California to reside or practice outside this state, Respondent must
9 notify the Board in writing of the dates of departure and return. Periods of non-California
10 residency or practice outside the state shall not apply to reduction of the probationary period, or
11 of any suspension. No obligation imposed herein, including requirements to file written reports,
12 reimburse the Board costs, or make restitution to consumers, shall be suspended or otherwise
13 affected by such periods of out-of-state residency or practice except at the written direction of the
14 Board.

15 9. **Violation of Probation.** If Respondent violates probation in any respect,
16 the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation
17 and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke
18 probation is filed against Respondent during probation, the Board shall have continuing
19 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
20 is final.

21 10. **Completion of Probation.** Upon successful completion of probation,
22 Respondent's license will be fully restored.

23 11. **Ethics Course/Examination.** Respondent shall take and pass with a score
24 of 90 percent or better a Board approved ethics examination within the first six (6) months of
25 probation.

26 If Respondent fails to pass said examination within the time period provided or
27 within two attempts, Respondent shall so notify the Board and shall cease practice until
28 Respondent takes and successfully passes said exam, has submitted proof of same to the Board,

1 and has been notified by the Board that he may resume practice. Failure to pass the required
2 examination no later than 100 days prior to the termination of probation shall constitute a
3 violation of probation.

4 Notwithstanding any other provision of this probation, failure to take and pass this
5 examination within five years of the effective date of this order constitutes a separate cause for
6 discipline of Respondent's license.

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8 **12. Continuing Education Courses.** Respondent shall complete and
9 provide proper documentation of completion of 24 hours of continuing professional education
10 courses as specified by the Board or its designee at the time of Respondent's first probation
11 appearance. The continuing professional education courses shall be completed by June 30, 2007.
12 This shall be in addition to the 80 hours of continuing education regularly required for re-
13 issuance of the license.

14 Failure to satisfactorily complete the required courses as scheduled or failure to
15 complete same no later than 100 days prior to the termination of probation shall constitute a
16 violation of probation.

17 **13. Active License Status.** Respondent shall at all times maintain an active
18 license status with the Board, including during any period of suspension. If the license is expired
19 at the time the Board's decision becomes effective, the license must be renewed within 30 days of
20 the effective date of the decision.

21 **14. Cost Reimbursement.** Respondent shall reimburse the Board its costs of
22 investigation and prosecution in the amount of Eleven Thousand, Five Hundred Dollars
23 (\$11,500.00), which sum shall be paid on a schedule approved by the Board. In no event shall the
24 final payment be due less than six (6) months prior to the end of probation.

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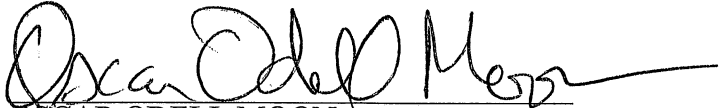
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1 ACCEPTANCE


2 I have carefully read the Stipulated Settlement and Disciplinary Order. I
3 understand the stipulation and the effect it will have on my Certified Public Accountant
4 Certificate No. CPA 27115. I enter into this Stipulated Settlement and Disciplinary Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 California Board of Accountancy.

7 DATED: JUL 11 2006.

8 
9 OSCAR ODELL MOON
Respondent

10 I have read and fully discussed with my client the terms of the Stipulated Settlement and
11 Disciplinary Order; I approve its form and content and concur in the stipulation as it pertains to
12 my client.


13 DATED: JUL 11 2006.

14 
15 LAW OFFICES OF BROWN & BROWN
16 by: DONALD B. BROWN
17 Attorney for Respondent

18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by California Board of Accountancy.

21
22 DATED: 7-25-06. BILL LOCKYER, Attorney General
23 of the State of California

24 
25 SUSAN MELTON WILSON
26 Deputy Attorney General
27 Attorneys for Complainant

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN MELTON WILSON, State Bar No. 106092
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-4942
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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CALIFORNIA BOARD OF ACCOUNTANCY
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. AC-2004-41

11 OSCAR ODELL MOON
a.k.a. O. ODELL MOON
12 P.O. Box 3130
Victorville, CA 92393

A C C U S A T I O N

13 Certified Public Accountant Certificate
14 No. CPA 27115,

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Carol Sigmann (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the California Board of Accountancy, Department of
21 Consumer Affairs.

22 2. On or about December 1, 1978, the California Board of Accountancy
23 issued Certified Public Accountant Certificate No. CPA 27115 to Oscar Odell Moon, a.k.a.
24 O. Odell Moon (Respondent). In March 1989, the Certified Public Accountant Certificate was in
25 a renewed status but inactive due to Respondent's failure to submit proof of compliance with
26 continuing education requirements, and remained in that status through June 30, 1989.

27 \\\

28 \\\

1 The Certificate was again renewed but inactive due to Respondent's failure to
2 submit proof of compliance with continuing education requirements for the period
3 July 1, 1989 through December 19, 1990.

4 Effective December 20, 1990, the Certificate was converted to active status
5 through June 30, 1991, upon receipt of declaration of compliance with continuing education
6 requirements. The Certificate was expired and was not valid during the period July 1, 1991
7 through July 14, 1991, due to Respondent's failure to pay the renewal fee and submit proof of
8 compliance with continuing education requirements.

9 Effective July 15, 1991, the Certificate was renewed through June 30, 1993, upon
10 receipt of the renewal fee and declaration of compliance with continuing education requirements.

11 The Certificate was renewed for the period July 1, 1993 through June 30, 1995,
12 with continuing education. However, the Certificate was expired and was not valid during the
13 period July 1, 1995 through October 26, 1995, due to Respondent's failure to pay the renewal fee
14 and submit proof of compliance with continuing education requirements.

15 Effective October 27, 1995, the Certificate was renewed through June 30, 1997,
16 with continuing education. However, the Certificate was expired and was not valid during the
17 period July 1, 1997 through July 29, 1997, due to Respondent's failure to pay the renewal fee and
18 submit proof of compliance with continuing education requirements.

19 Effective July 30, 1997, the Certificate was renewed through June 30, 1999, with
20 continuing education. The Certificate was again renewed for the period July 1, 1999 through
21 June 30, 2001, with continuing education. However, the Certificate was expired and was not
22 valid during the period July 1, 2001 through September 5, 2001, due to Respondent's failure to
23 pay the renewal fee and submit proof of compliance with continuing education requirements.

24 The Certificate was renewed effective September 6, 2001, but inactive due to
25 Respondent's failure to submit proof of compliance with continuing education requirements.
26 Effective November 25, 2002, the licensee complied with continuing education requirements,
27 and the Certificate was converted to an active status through June 30, 2003.

28 \\\

The Certificate was regularly renewed, is currently in full force and effect and will expire on July 1, 2005, unless renewed.

JURISDICTION

3. This Accusation is brought before the California Board of Accountancy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b), states:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

5. Section 5100 states:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

• • • •

"(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

6. Section 5050 states:

"No person shall engage in the practice of public accountancy in this State unless such person is the holder of a valid permit to practice public accountancy issued by the board; provided, however, that nothing in this chapter shall prohibit a certified public accountant or a public accountant of another state, or any accountant of a foreign country lawfully practicing

1 therein, from temporarily practicing in this State on professional business incident to his regular
2 practice in another state or country."

3 7. Section 5051 states:

4 "Except as provided in Sections 5052 and 5053, a person shall be deemed to be
5 engaged in the practice of public accountancy within the meaning and intent of [Chapter 1 of
6 Division 3 (commencing with Section 5000)] if he or she does any of the following:

7 "(a) Holds himself or herself out to the public in any manner as one skilled in
8 the knowledge, science, and practice of accounting, and as qualified and ready to render
9 professional service therein as a public accountant for compensation.

10 "(b) Maintains an office for the transaction of business as a public accountant.

11 "(c) Offers to prospective clients to perform for compensation, or who does
12 perform on behalf of clients for compensation, professional services that involve or require an
13 audit, examination, verification, investigation, certification, presentation, or review of financial
14 transactions and accounting records.

15 "(d) Prepares or certifies for clients reports on audits or examinations of books
16 or records of account, balance sheets, and other financial, accounting and related schedules,
17 exhibits, statements, or reports that are to be used for publication, for the purpose of obtaining
18 credit, for filing with a court of law or with any governmental agency, or for any other purpose.

19 "(e) In general or as an incident to that work, renders professional services to
20 clients for compensation in any or all matters relating to accounting procedure and to the
21 recording, presentation, or certification of financial information or data.

22 "(f) Keeps books, makes trial balances, or prepares statements, makes audits,
23 or prepares reports, all as a part of bookkeeping operations for clients.

24 "(g) Prepares or signs, as the tax preparer, tax returns for clients.

25 "(h) Prepares personal financial or investment plans or provides to clients
26 products or services of others in implementation of personal financial or investment plans.

27 "(i) Provides management consulting services to clients.

28 ///

1 "The activities set forth in subdivisions (f) to (i), inclusive, are 'public
2 accountancy' only when performed by a certified public accountant or public accountant, as
3 defined in this chapter.

4 "A person is not engaged in the practice of public accountancy if the only services
5 he or she engages in are those defined by subdivisions (f) to (i), inclusive, and he or she does not
6 hold himself or herself out, solicit, or advertise for clients using the certified public accountant or
7 public accountant designation. A person is not holding himself or herself out, soliciting, or
8 advertising for clients within the meaning of this section solely by reason of displaying a CPA or
9 PA certificate in his or her office or identifying himself or herself as a CPA or PA on other than
10 signs, advertisements, letterhead, business cards, publications directed to clients or potential
11 clients, or financial or tax documents of a client."

12 8. California Code of Regulations, title 16, section 52, states:

13 "(a) A licensee shall respond to any inquiry by the Board or its appointed
14 representatives within 30 days. The response shall include making available all files, working
15 papers and other documents requested.

16 "(b) A licensee shall respond to any subpoena issued by the Board or its
17 executive officer or the assistant executive officer in the absence of the executive officer within
18 30 days and in accordance with the provisions of the Accountancy Act and other applicable laws
19 or regulations.

20 "(c) A licensee shall appear in person upon written notice or subpoena issued
21 by the Board or its executive officer or the assistant executive officer in the absence of the
22 executive officer.

23 "(d) A licensee shall provide true and accurate information and responses to
24 questions, subpoenas, interrogatories or other requests for information or documents and not take
25 any action to obstruct any Board inquiry, investigation, hearing or proceeding."

26 9. California Code of Regulations, title 16, section 58, requires that a
27 licensee comply with all applicable professional standards.

28 \\

1 10. California Code of Regulations, title 16, section 63, states:

2 "A licensee shall not advertise or use other forms of solicitation in any manner
3 which is false, fraudulent, misleading, or in violation of Section 17500 of the Business and
4 Professions Code."

5 11. California Code of Regulations, title 16, section 87, subdivision (a), states,
6 in pertinent part:

7 "As a condition of active status license renewal, a licensee shall complete at least
8 80 hours of qualifying continuing education as described in Section 88 in the two-year period
9 immediately preceding license expiration and meet the reporting requirements specified in
10 subsection (a) of Section 89.

11 "A licensee engaged in the practice of public accountancy as defined in Section
12 5051 of the Business and Professions Code is required to hold a license in active status. No
13 carryover of continuing education is permitted from one two-year license renewal period to
14 another."

15 12. California Code of Regulations, title 16, section 89, states:

16

17 "(c) If continuing education credit for attending a continuing education course
18 is claimed, the licensee shall obtain and retain for four years after renewal a certificate of
19 completion or its equivalent disclosing the following information:

20 "(1) Name of licensee in attendance

21 "(2) School, firm or organization conducting course

22 "(3) Location of course attended

23 "(4) Title of course or description of content

24 "(5) Dates of attendance except when the licensee attended a course for
25 academic credit given by a college, university, or other institution of higher learning accredited
26 by an association recognized by the Secretary of the United States Department of Education, in
27 which case the applicant may provide evidence of a grade of pass or "credit" to satisfy this
28 requirement.

"(6) Number of hours of actual attendance except when the licensee attended a course for academic credit given by a college, university, or other institution of higher learning accredited by an association recognized by the Secretary of the United States Department of Education, in which case the applicant may provide evidence of a grade of pass or "credit" to satisfy this requirement.

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"(e) If credit as an instructor, discussion leader, or speaker is claimed, the licensee shall retain for four years after renewal the following information:

"(1) School, firm or organization providing course

"(2) Location of course presented

"(3) Title of the course or description of content

"(4) Course outline

"(5) Dates and evidence of presentation

"(6) Number of hours of actual preparation time and presentation time."

13. Section 5107, subdivision (a), states, in pertinent part:

"The executive officer of the board may request the administrative law judge, as a part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees. The board shall not recover costs incurred at the administrative hearing."

FIRST CAUSE FOR DISCIPLINE

Unprofessional Conduct

14. Respondent is subject to disciplinary action in that Respondent's conduct constitutes unprofessional conduct under section 5100, and section 5100 subdivision (g), for violating California Code of Regulations, title 16, section 63, due to Respondent's failure to comply with applicable professional standards of due care and diligence in discharging his responsibilities to his client, C.J.M., between approximately May and October of 2002, as follows:

1 a. On or about May 29, 2002, Respondent met with a new client, C.J.M., at
2 his business office. He agreed to represent her in a tax dispute with the State Board of
3 Equalization (SBE), and accepted a \$200 retainer's fee for said representation. Said retainer fee
4 was duly deposited into the account of "Odell Moon CPA".

5 b. On numerous occasions between June 18, 2002 and August 27, 2002,
6 C.J.M., via telephone and electronic mail ("e-mail"), attempted to converse with Respondent
7 about the status of the case.

8 c. On or about August 27, 2002, C.J.M. sent a letter to the SBE, copied to
9 Respondent, in which she described her inability to contact Respondent and stated her plan to
10 "hire another CPA" if she did not hear from Respondent by 5 P.M. that date. Respondent did not
11 contact C.J.M. that date. Nevertheless, on September 12, 2002, C.J.M. sent Respondent the first
12 of several requests via e-mail for an update on the status of her case.

13 d. Respondent made no immediate response. However, on September 18,
14 2002, he sent C.J.M. an e-mail in which he assured her that he had provided all relevant
15 information and "arguments" to the SBE, stating " I have not received a reply as of yet. I will
16 send you copies of their reply as soon as it comes in."

17 e. On or about September 20, 2002, C.J.M. advised Respondent via e-mail of
18 a telephone call from an SBE agent who indicated Respondent had not answered or returned the
19 agent's calls. C.J.M. requested that Respondent contact the agent.

20 f. On or about September 25, 2002, while waiting for Respondent at his
21 office, C.J.M. spoke to him by telephone. She requested that he provide her with documents
22 related to her case. During the call, Respondent promised to: 1) fax the requested documents to
23 her the next day; and 2) follow up by telephone to discuss the case status. Neither fax nor phone
24 call were received.

25 g. Between September 26, 2002 and October 15, 2002, C.J.M. renewed her
26 request for the documents on numerous occasions, via telephone messages and e-mails.
27 Respondent made no response to these contacts.

28 h. On the morning of October 15, 2002, via e-mail, C.J.M. advised

1 Respondent that she had received a "final notice" from the SBE, threatening a lien against her
2 property. Respondent replied the same day, via e-mail, that he would fax her documents and
3 telephone her when he was "back in the office tomorrow." Neither fax nor follow-up telephone
4 call were received the next day.

5 i. Again between October 16, 2002 and November 7, 2002, C.J.M. made
6 multiple attempts to communicate with Respondent, including a handwritten note left at
7 Respondent's business office. Respondent made no response to these contacts.

8 j. During his initial consultation with her, Respondent represented to C.J.M.
9 that, based on his experience, he would be able to negotiate a reduction of her liability to the
10 SBE. Due to Respondent's failure to provide meaningful representation, C.J.M. was caused to
11 conclude the matter by paying the full amount requested by the SBE, including interest and
12 penalties, without negotiation.

13 k. American Institute of Certified Public Accountants (AICPA) Principles of
14 Professional Conduct, at Section 56, Article V, provide at subdivision .04: *"Members should be*
15 *diligent in discharging responsibilities to clients....Diligence imposes the responsibility to render*
16 *services promptly and carefully, to be thorough, and to observe applicable technical and ethical*
17 *standards."*

18 l. American Institute of Certified Public Accountants (AICPA) Principles of
19 Professional Conduct further provide at Section 56, Article V, subdivision .01: *"...Due care*
20 *requires a member to discharge professional responsibilities with competence and diligence. It*
21 *imposes the obligation to perform professional services to the best of a member's ability with*
22 *concern for the best interest of those for whom the services are performed..."*

23 m. At all times between his retention by client C.J.M. on May 29, 2002 and
24 the conclusion of her SBE dispute, Respondent failed to discharge his professional
25 responsibilities to the client with due care and diligence, within the meaning of AICPA
26 Principles of Professional Conduct and/or all applicable professional standards.

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28 \\\

1 SECOND CAUSE FOR DISCIPLINE

2 **Practicing Without a License**

3 15. Respondent is subject to disciplinary action under section 5100,
4 subdivision (g), and 5050 of the Code, in that Respondent engaged in the practice of public
5 accountancy during a period when his permit was in an expired or inactive status, from at least
6 September 1, 2001 through October 2002, as follows:

7 a. Respondent's permit to practice was expired and not valid during the
8 period July 1, 2001 through September 5, 2001.

9 b. Respondent's permit was renewed effective September 6, 2001, in the
10 inactive status due to Respondent's failure to submit proof of compliance with continuing
11 education.

12 c. On Respondent's renewal application dated September 1, 2001, he
13 certified "under penalty of perjury under the law of the State of California that all statements,
14 answers and representations in this application including supplementary statements attached
15 hereto are true and accurate" that he was currently practicing public accountancy. Respondent
16 attached a letter dated September 1, 2001, to his renewal application that was on the letterhead of
17 "O. Odell Moon, J.D., C.P.A., C.F.E., Certified Public Accountant".

18 d. As described in paragraph 14 above, on or about May 29, 2002,
19 Respondent was retained by client C.J.M. to represent her in a matter before the SBE.

20 e. By these acts, Respondent held himself out to his client and the public as a
21 certified public accountant, currently qualified and ready to render accounting services, when, in
22 fact, his license was not in a current, active status.

23 THIRD CAUSE FOR DISCIPLINE

24 **False, Fraudulent and Misleading Advertisement**

25 16. Respondent is subject to disciplinary action under section 5100,
26 subdivision (g), of the Code on the grounds of unprofessional conduct for violating California
27 Code of Regulations, title 16, section 63, in that for at least 5 years - between approximately July
28 1999 and August 17, 2004, Respondent fraudulently used the designation for a Certified Fraud

1 Examiner ("C.F.E.") immediately following his name on his letterhead , business checks and
2 other correspondence. In fact, Respondent was not a Certified Fraud Examiner in good standing
3 and allowed to use the C.F.E. designation, as his membership expired in and about August 1996.

4 FOURTH CAUSE FOR DISCIPLINE

5 **Failure to Complete Continuing Education**

6 17. Respondent is subject to disciplinary action under section 5100,
7 subdivision (g), of the Code on the grounds of unprofessional conduct for violating California
8 Code of Regulations, title 16, section 87, in that in the two year period immediately preceding his
9 license expiration in Summer, 2001, Respondent failed to complete the requisite hours of
10 continuing education, as follows:

11 a. Respondent's Certificate expired on July 1, 2001. On September 5, 2001,
12 Respondent paid the renewal fee, but indicated in his application that he had not completed the
13 continuing education requirements. Respondent's certificate was renewed in the inactive status.

14 b. Respondent indicated on a second application dated November 22, 2002,
15 that he completed the total required hours of continuing education for an active status license.

16 c. None of the courses listed on the second application listed a completion
17 date prior to Respondent's license expiration date of July 1, 2001.

18 FIFTH CAUSE FOR DISCIPLINE

19 **Failure to Meet Reporting and Documentation Requirements**

20 18. Respondent is subject to disciplinary action under section 5100,
21 subdivision (g), of the Code on the grounds of unprofessional conduct for violating California
22 Code of Regulations, title 16, section 89, due to multiple instances in which Respondent failed to
23 meet the reporting requirements and/or maintain documentation for continuing education as
24 specified in Section 89, as follows:

25 a. Respondent failed to provide the Board with documentation supporting
26 completion of all of the continuing education claimed on his renewal form dated November 22,
27 2002, for the expiration period ended June 30, 2001. Respondent provided certificates of
28 completion for only 31 hours of continuing education, although he claimed 81 hours on his

1 renewal form.

2 b. On September 15, 2003, the Board issued a subpoena requesting
3 Respondent to submit documentation for the completion of continuing education for the renewal
4 period ended June 30, 2001. Respondent failed to provide the requested documentation.

5 **SIXTH CAUSE FOR DISCIPLINE**

6 **Failure to Respond to Board Inquiries**

7 19. Respondent is subject to disciplinary action under section 5100,
8 subdivision (g) due to multiple, willful violations of Title 16, California Code of Regulations
9 section 52, subdivisions (a) and (b), by reason of his failure to respond to Board inquiries, written
10 and telephonic and his having failed to comply with the Board's duly issued investigatory
11 subpoena, as follows:

12 a. **Written and Telephonic Inquiries**

13 1. The Board's investigation case file AC 2003-232 was opened in
14 November of 2002, to investigate a complaint by C.J.M. against Respondent.

15 2. On November 22, 2002, the Board sent a letter to Respondent
16 requesting that information regarding C.J.M.'s allegations be provided to the Board within 30
17 days. A second letter requesting additional information, also within 30 days, was sent on
18 November 25, 2002. Respondent made no response to either letter.

19 3. On January 30, 2003, the Board sent a third letter to Respondent,
20 reiterating requests for information made in the previous two letters. No response was received.

21 4. On March 11, 2003, a Board investigator telephoned Respondent's
22 business office, and left a message for Respondent with the receptionist, asking him to return the
23 call. No response was received.

24 b. **Investigatory Subpoena**

25 1. Complainant authorized issuance of an investigatory subpoena to
26 Respondent, pursuant to section 5108 directing Respondent to produce certain documents and
27 information by mail or delivery to the Board's office in Sacramento.

28 2. On or about September 15, 2003, the subpoena and accompanying

1 documents were served by first class and certified mail to Respondent's address of record. A
2 certified mail return receipt card was subsequently returned, indicating receipt by Respondent.

3 3. Respondent made no response whatsoever to the subpoena until ten
4 months later. In July, 2004, Respondent provided some but not all of the requested information.
5 Respondent has yet to completely and fully respond to the Board's subpoena.

6 PRAYER

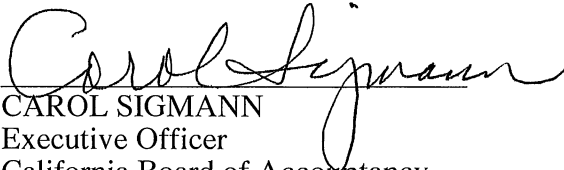
7 WHEREFORE, Complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the California Board of Accountancy issue a decision:

9 a. Revoking, suspending or otherwise imposing discipline on Certified
10 Public Accountant Certificate No. CPA 27115, issued to Oscar Odell Moon, a.k.a. O. Odell
11 Moon.

12 b. Ordering Oscar Odell Moon a.k.a. O. Odell Moon, to pay the California
13 Board of Accountancy the reasonable costs of the investigation and enforcement of this case,
14 pursuant to Business and Professions Code section 5107;

15 c. Taking such other and further action as deemed necessary and proper.

16
17 DATED: May 9, 2005

18
19 
20 CAROL SIGMANN
21 Executive Officer
22 California Board of Accountancy
23 Department of Consumer Affairs
24 State of California
25 Complainant

26 LA2004601924

27 CML (12/16/2004)
28 50034907